



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,184	02/13/2002	William M. Traut	66867-001-8	5310

7590 04/27/2004  
Dykema Gossett, PLLC  
Suite 300 West  
1300 I Street, N.W.  
Washington, DC 20005-3306

EXAMINER

PHAM, MINH CHAU THI

ART UNIT PAPER NUMBER

1724

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

141

# Office Action Summary

Application No.

10/073,184

Applicant(s)

TRAUT ET AL

Examiner

Minh-Chau T. Pham

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

NOTE: The Notice of Allowance mailed to Applicant on February 23, 2004 is hereby withdrawn. The prosecution of this patent application is now reopened.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7, 8 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by the French reference (FR 2769850).

The French reference teaches a filter made from activated carbon, received in a conduit (2) which is inserted at a point in the gas venting system of a septic tank. The conduit (2) containing the filter therein is sealingly attached to the septic gas vent piping (see Figs. 1, 4 and 5). Since the filter is contained within conduit (2), the filter is disposed in at least one aperture – the aperture of the conduit.

Claims 1-3, 7, 8 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Oldham (4,649,677).

Oldham teaches a septic tank (40) with an overhead pipe (46) through which methane gas transported, pipe (46) connects to the horizontal pipe (see horizontal pipe in Fig. 11 which connects to pipe (46) which then transport the methane gas through filter (48). The filter (48) is contained in the horizontal pipe through which the gas flows so it would meet the disposed in at least one aperture limitation, i.e. the pipe aperture.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the French reference (FR 2769850).

The French reference discloses a filter made from activated carbon, received in a conduit (2) which is inserted at a point in the gas venting system of a septic tank. The conduit (2) containing the filter therein is sealingly attached to the septic gas vent piping (see Figs. 1, 4 and 5). Since the filter is contained within conduit (2), the filter is disposed in at least one aperture – the aperture of the conduit. Claims 4-6 call for the conduit having different sizes and being misaligned. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the conduit to have different sizes or being misaligned since such modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Claims 9, 10-12 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the French reference (FR 2769850), in view of the German Patent (DT 2617364; 1-5 & 7 in Figs. 1 & 2).

---

Claims 9, 10-12 and 17-18 call for a fixture mounted on the leg. The German reference discloses a vent for a septic system including a conduit to convey gas comprising a leg configured to mount on, conceal a portion of and convey gas from the conduit wherein the leg is configured for mounting a fixture thereon. The German

reference further discloses the leg closely or sealingly receives the conduit and configured to convey gas from the conduit to the passage, and a fixture mounted on the leg where the fixture is a statue or a garden ornament. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a vent for a septic system with a mounted fixture thereon as taught by the German reference in the conduit of the French reference to provide an artificial landscaping device adapted to fit over the septic system covers or vents and look fully natural to an unsuspecting observer by blending into the landscaping.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

---

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Minh-Chau Pham**  
**Patent Examiner**  
**Art Unit: 1724**  
**April 12, 2004**



**BLAINE COPENHEAVER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1700**